

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

TYRONE BLOCKER,

Plaintiff,

v.

GOOGLE NEST INC.,

Defendant.

Case No. 3:20-cv-547-AC

ORDER

Michael H. Simon, District Judge.

U.S. Magistrate Judge Acosta issued Findings and Recommendations in this case on April 24, 2020. ECF 11. Judge Acosta recommended that the Court should dismiss Mr. Blocker's complaint *sua sponte* with leave to file an amended complaint to cure the identified deficiencies within thirty days of the district judge's order of dismissal. No party filed objections. The Court has reviewed Mr. Blocker's complaint and Judge Acosta's Findings and Recommendations.

Under the Federal Magistrates Act ("Act"), the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C.

§ 636(b)(1). If a party files an objection to a magistrate judge's findings and recommendations,

“the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate judge’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Magistrate Judge Acosta’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court **ADOPTS** Magistrate Judge Acosta’s Findings and Recommendation, ECF 11. Mr. Blocker’s complaint (ECF 1) is **DISMISSED** with leave to file within 30 days an amended complaint curing the deficiencies identified by Judge Acosta.

IT IS SO ORDERED.

DATED this 16th day of June, 2020.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge